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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS**

In the Matter of the Accusation Against:

TWILA ANN MITCHUM, R.P.T.
200 Casentini Street
Salinas, CA 93907

Physical Therapist License No. PT 15256

Respondent.

Case No. 1D 2003 63574

FIRST AMENDED ACCUSATION

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California.
2. On or about September 6, 1988, the Board issued Physical Therapist License Number PT 15256 to Twila Ann Mitchum, R.P.T. (Respondent). Said license was at all relevant times current and valid and will expire on July 31, 2004, unless renewed. On August 4, 2004, respondent's license was suspended pursuant to in Interim Suspension Order issued pursuant to Business and Professions Code section 822 and Government Code section 11529.

JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

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4. Section 2609 of the Code states:

The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

5. Section 2660 of the Code states:

The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes:

- (a) Advertising in violation of Section 17500.
- (b) Fraud in the procurement of any license under this chapter.
- (c) Procuring or aiding or offering to procure or aid in criminal abortion.
- (d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.
- (e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.
- (f) Habitual intemperance.
- (g) Addiction to the excessive use of any habit-forming drug.
- (h) Gross negligence in his or her practice as a physical therapist.
- (i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.
- (j) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.
- (k) The aiding or abetting of any person to engage in the unlawful practice of physical therapy.
- (l) The commission of any fraudulent, dishonest, or corrupt act which is

1 substantially related to the qualifications, functions, or duties of a physical
2 therapist.

3 (m) Except for good cause, the knowing failure to protect patients by
4 failing to follow infection control guidelines of the board, thereby risking
5 transmission of blood-borne infectious diseases from licensee to patient, from
6 patient to patient, and from patient to licensee. In administering this subdivision,
7 the board shall consider referencing the standards, regulations, and guidelines of
8 the State Department of Health Services developed pursuant to Section 1250.11 of
9 the Health and Safety Code and the standards, regulations, and guidelines
10 pursuant to the California Occupational Safety and Health Act of 1973 (Part 1
11 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing
12 the transmission of HIV, Hepatitis B, and other blood-borne pathogens in health
13 care settings. As necessary, the board shall consult with the Medical Board of
14 California, the California Board of Podiatric Medicine, the Board of Dental
15 Examiners of California, the Board of Registered Nursing, and the Board of
16 Vocational Nursing and Psychiatric Technicians, to encourage appropriate
17 consistency in the implementation of this subdivision.

18 The board shall seek to ensure that licensees are informed of the responsibility of
19 licensees and others to follow infection control guidelines, and of the most recent scientifically
20 recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

21 6. Section 2661 of the Code states:

22 A plea or verdict of guilty or a conviction following a plea of nolo contendere
23 made to a charge of a felony or of any offense which substantially relates to the qualifications,
24 functions, or duties of a physical therapist is deemed to be a conviction within the meaning of
25 this article. The board may order the license suspended or revoked, or may decline to issue a
26 license, when the time for appeal has elapsed, or the judgement of conviction has been affirmed
27 on appeal or when an order granting probation is made suspending the imposition of sentence,
28 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person

1 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
2 of guilty, or dismissing the accusation, information, or indictment.

3 7. Section 820 of the Code provides:

4 “Whenever it appears that any person holding a license, certificate or permit under this
5 division or under any initiative act referred to in this division may be unable to practice
6 his or her profession safely because the licentiate's ability to practice is impaired due to
7 mental illness, or physical illness affecting competency, the licensing agency may order
8 the licentiate to be examined by one or more physicians and surgeons or psychologists
9 designated by the agency. The report of the examiners shall be made available to the
10 licentiate and may be received as direct evidence in proceedings conducted pursuant to
11 Section 822.”

12 8. Section 822 of the Code provides that, if a licensing agency determines
13 that its licentiate's ability to practice his profession safely is impaired because the licentiate is
14 mentally ill, or physically ill affecting competency, the licensing agency may take action by any
15 one of the following methods:

- 16 “(a) Revoking the licentiate's certificate or
17 license.
18 (b) Suspending the licentiate's right to
19 practice.
20 (c) Placing the licentiate on probation.
21 (d) Taking such other action in relation to the licentiate as the
22 licensing agency in its discretion deems proper.”

23 Section 822 further provides that “[t]he licensing agency shall not reinstate a
24 revoked or suspended certificate or license until it has received competent evidence of the
25 absence or control of the condition which caused its action and until it is satisfied that with due
26 regard for the public health and safety the person's right to practice his or her profession may be
27 safely reinstated.”

28 9. Section 824 of the Code provides that a licensing agency may proceed
against a licentiate under either Section 820, or 822, or under both sections.

10. Section 2661.5 of the Code provides that, in any order issued in resolution
of a disciplinary proceeding before the board, the board may request the administrative law judge

1 to direct any licensee to pay to the board a sum not to exceed the actual and reasonable costs of
2 the investigation and prosecution of the case.

3 FIRST CAUSE FOR DISCIPLINE

4 (Conviction of Crime)

5 11. Respondent is subject to disciplinary action under section 2660 and
6 2660(d) of the Code in that respondent entered a plea of guilty to violation of the Controlled
7 Substances Act, which constitutes conviction of a crime as defined by Section 2661. The
8 circumstances are as follows:

9 12. On or about July 24, 2003, respondent was arrested by the City of Salinas
10 Police Department. On the morning of that day, respondent went to her psychiatrist's office and
11 demanded to see him. When she was told that she could not see him because he was in session,
12 she requested prescriptions for psychiatric medications. Upon being advised that the doctor was
13 in session and that no prescription could be issued, respondent became angry. She yelled out
14 demands for medications, knocked items off the reception desk and threatened the doctor's
15 secretary with violence. When the secretary called the police, respondent ran into another office
16 and began yelling and screaming. Police officers later found her in her home, which is one block
17 away from the medical offices. Respondent admitted that she had been at the medical offices and
18 that she had been trying to obtain refills of her psychiatric medications. She told officers that she
19 wanted to return to the medical offices and hit and kill the secretary who had telephoned the
20 police. After much resistance by her, respondent was subdued with a taser gun and was taken
21 into custody pursuant to Welfare & Institutions Code 5150 and placed on a 72 hour involuntary
22 psychiatric hold at Natividad Medical Center.

23 13. In a search of her clothing incident to her detention, a packet of a powdery
24 substance later determined to be methamphetamine was discovered by nursing staff.

25 14. On July 28, 2003, a criminal complaint was filed charging respondent with
26 one felony count and three misdemeanor counts. Count 1 charged respondent with possession of
27 a controlled substance, methamphetamine, which is a felony. Count 2 charged respondent with
28 resisting or obstructing a public officer, a misdemeanor. Count 3 charged respondent with

1 making threats of violence, a misdemeanor. Count 4 charged respondent with disturbing the
2 peace, a misdemeanor.

3 15. On October 14, 2003, Respondent entered a plea of guilty to Count 1, i.e.,
4 felony possession of methamphetamine, a controlled substance.

5 SECOND CAUSE FOR DISCIPLINE

6 (Mental/Physical Impairment)

7 16. Respondent is subject to disciplinary action under section 822 in that
8 respondent is mentally ill and/or physically ill affecting her competency. The circumstances are
9 as follows.

10 17. On May 27, 2004, the Board issued an order compelling respondent to
11 undergo a psychological evaluation.

12 18. On June 15, 2004, respondent was interviewed by a Board-approved
13 psychologist. In a report dated July 3, 2004, the psychologist reported to the Board that
14 respondent's mental illness and substance abuse and substance dependency disorders rendered
15 her unsafe to practice physical therapy.

16 19. Respondent's mental illness and substance abuse and substance
17 dependency disorders constitute a mental illness and/or physical illness impairing her
18 competency and she is unable to practice physical therapy with safety to the public.
19 Respondent's license is subject to revocation pursuant to sections 820 and 822 of the Code.

20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein
22 alleged, and that following the hearing, the Board issue a decision:

23 1. Revoking or suspending Physical Therapist License Number PT 15256,
24 issued to Twila Ann Mitchum, R.P.T..

25 2. Ordering Twila Ann Mitchum to pay the Board the reasonable costs of the
26 investigation and enforcement of this case, pursuant to Business and Professions Code section
27 2661.5;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 08/18/2004

Original Signed By: _____
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
State of California
Complainant

SF2004400423
Mitchum Amended Accusation.wpd